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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.855 OF 2007

The State of Maharashttra Appellant
versus
Rama Ladku Ghaarat Respondent

S.N.Gawade, AGP for appellant.
None for the respondent.

CORAM : A.S.OKA, J.

DATE : 06th March 2007

PC :

1. Heard learned AGP for the appellant.

2. The challenge in this first appeal is to the judgement and award dated 30th March 2002 passed by the learned Joint Civil Judge, Senior Division, Alibag in a Reference u/s 18 of the Land Acquisition Act, 1894 (hereinafter referred to the "said Act of 1894").

3. The reference relates to a land situate at Village Kamothe, Taluka Panvel, District Raigad. The said land was notified for acquisition by a notification dated 3rd February 1970 issued u/s 4

of the said Act. The purpose of acquisition was development of Satellite City of Navi Mumbai. Award u/s 11 of the said Act was made on 17th September 1986. By the impugned judgement and award the Reference Court has awarded market value @ Rs.15/- per square meter. On the basis of oral evidence on record, the Reference Court has held that the acquired land was situated at a distance of 2,800 sqm. from Mumbai-Pune highway.

4. My attention has been invited to a decision of the Division Bench of this Court dated 25/26th February 1993 delivered in First Appeal No.754 of 1986 (Nama Padu Hudar & four others Vs. State of Maharashtra) and other companion first appeals. The Division Bench was dealing with the appeals arising out of the awards made u/s 18 of the said Act of 1894 in respect of the lands situate at villages Kamothe and Panvel in Panvel Taluka. The lands which were subject matter of the appeals before the Division Bench were also notified u/s 4 of the said Act of 1894 on 3rd February 1970 and were notified for the same public purpose of development of Satellite City of Navi Mumbai. The Division Bench divided the acquired lands into five categories depending on its distance from Mumbai-Pune highway and fixed

different market value for each category. The decision of the Division Bench has attained finality.

5. For the acquired lands at Village Kamothe abutting the Mumbai-Pune Highway, the Division Bench has fixed the market value @ Rs.25/- per sqm.. For the land which was situated at a distance of 2,200 metres from the highway, the market value of Rs.20/- per sqm. has been fixed. Applying the test adopted by the Division Bench and considering the fact that the acquired land in the present case is located at a distance of 2,800 sq.m. from the Mumbai-Pune highway, the market value of Rs.15/- per sqm. awarded by the Reference Court cannot be said to be on the higher side. In fact, the market value cannot be less than Rs.16/- per sqm.. There is no dispute about the grant of statutory benefits.

6. Hence, there is no merit in the appeal. The appeal is dismissed with no order as to costs.

7. In view of dismissal of the First Appeal, Civil Application No.1606 of 2005 does not survive and is accordingly dismissed as not surviving.

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(A.S.OKA, J.)